

**ASSEMBLY BILL**

**No. 561**

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**Introduced by Assembly Member Carter**

February 25, 2009

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An act to amend Sections 241.5 and 243.65 of the Penal Code, relating to crimes against highway workers.

LEGISLATIVE COUNSEL'S DIGEST

AB 561, as introduced, Carter. Highway workers: assault and battery.

Existing law establishes the offense of assault against a highway worker engaged in the performance of his or her duties, where “highway worker” is defined as an employee or contractor of the Department of Transportation engaged in specified activities related to state highways.

This bill would expand the definition of highway worker for that offense to include employees of a city, county, or city and county, and to include additional specified activities related to local roads or streets.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

Existing law establishes the offense of battery against a highway worker engaged in the performance of his or her duties, where “highway worker” is defined as an employee or contractor of the Department of Transportation engaged in specified activities related to state highways.

This bill would expand the definition of highway worker for that offense to include employees of a city, county, or city and county, and to include additional specified activities related to local roads or streets.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 241.5 of the Penal Code is amended to  
2 read:

3 241.5. (a) When an assault is committed against a highway  
4 worker engaged in the performance of his or her duties and the  
5 person committing the offense knows or reasonably should know  
6 that the victim is a highway worker engaged in the performance  
7 of his or her duties, the offense shall be punishable by a fine not  
8 to exceed two thousand dollars (\$2,000) or by imprisonment in a  
9 county jail up to one year or by both that fine and imprisonment.

10 (b) As used in this section, “highway worker” means an  
11 employee ~~or contractor~~ of the Department of Transportation, *a*  
12 *contractor while working under contract with the Department of*  
13 *Transportation, or an employee of a city, county, or city and*  
14 *county*, who does one or more of the following:

15 (1) Performs maintenance, repair, or construction of state  
16 highway *or local street or road* infrastructures and associated  
17 rights-of-way in highway *or local street or road* work zones.

18 (2) Operates equipment on state highway *or local street or road*  
19 infrastructures and associated rights-of-way in highway *or local*  
20 *street or road* work zones.

21 (3) Performs any related maintenance work, as required, on  
22 state highway *or local street or road* infrastructures in highway  
23 *or local street or road* work zones.

24 SEC. 2. Section 243.65 of the Penal Code is amended to read:

25 243.65. (a) When a battery is committed against the person  
26 of a highway worker engaged in the performance of his or her  
27 duties and the person committing the offense knows or reasonably  
28 should know that the victim is a highway worker engaged in the  
29 performance of his or her duties, the offense shall be punished by  
30 a fine not exceeding two thousand dollars (\$2,000), or by

1 imprisonment in a county jail not exceeding one year, or by both  
2 that fine and imprisonment.

3 (b) As used in this section, “highway worker” means an  
4 employee ~~or contractor~~ of the Department of Transportation, *a*  
5 *contractor while working under contract with the Department of*  
6 *Transportation, or an employee of a city, county, or city and*  
7 *county*, who does one or more of the following:

8 (1) Performs maintenance, repair, or construction of state  
9 highway *or local street or road* infrastructures and associated  
10 rights-of-way in highway *or local street or road* work zones.

11 (2) Operates equipment on state highway *or local street or road*  
12 infrastructures and associated rights-of-way in highway *or local*  
13 *street or road* work zones.

14 (3) Performs any related maintenance work, as required, on  
15 state highway *or local street or road* infrastructures in highway  
16 *or local street or road* work zones.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.